

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
GABINO GENAO,

Plaintiff,

-v-

CIVIL ACTION NO.: 20 Civ. 6507 (PGG) (SLC)

CITY OF NEW YORK; C.O. MARSHA LYNCH; C.O.
DREW WILLIAMS; C.O. ANTHONY MORALES JR.;
CAPT. PHILLIPS; C.O. KRISTINA FORD, RHU DR. HO;
and CAPT. KEISHA LEMON,

Defendants.

ORDER

SARAH L. CAVE, United States Magistrate Judge:

The Clerk of Court is respectfully directed to mail (i) a copy of **this Order**, and (ii) the annexed transcript of the December 20, 2018 Infraction Hearing, to Mr. Genao at the address below.

Dated: New York, New York
 July 6, 2022

SO ORDERED.


SARAH L. CAVE
United States Magistrate Judge

Mail To: Gabino Genao
 ID#22B1480
 Attica C.F.
 P.O. Box 149
 Attica, NY 14011-0149

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
GENAO, : Docket #20cv6507
Plaintiff, :
- against - :
CITY OF NEW YORK, et al., : New York, New York
Defendants. : December 20, 2018
----- : INFRACTION HEARING

INTERVIEW BETWEEN CAPTAIN KELECIA PHILLIPS
AND GAMBINO GENAO (PLAINTIFF)

Transcription Service: Carole Ludwig, *Transcription Services*
155 East Fourth Street #3C
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Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

USUAL APPEARANCES AT CONFERENCES AND HEARING:

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Elmira, NY 14902

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BY: CAROLINE MCGUIRE, ESQ.
100 Church Street
New York, NY 10007

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E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
None				

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
None				

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2 CAPTAIN KELECIA PHILLIPS: Genao Gambino, NIC,
3 today is December 20, 2018. The time now is
4 approximately 12:13 hours. I'm Captain Phillips of the
5 1448 (inaudible) Unit. Sir, state your name and
6 booking case number for the record.

7 MR. GENAO GAMBINO (THE PLAINTIFF): Gambino,
8 Genao, 1131700734.

9 CAPTAIN PHILLIPS: Your name and booking case
10 number has been confirmed with the report and notice of
11 infraction as well as the MA lookup service. We are
12 here today reconvening a hearing which was placed in
13 adjournment by you on October 31, 2018, Folder Number
14 C164, and which was placed in adjournment for the
15 following statements.

16 THE PLAINTIFF: Can I object to something --

17 CAPTAIN PHILLIPS: Let me finish, sir. Let me
18 finish. No, you can't, let me finish. At which time
19 you asked for a statement from Captain Lemmon
20 (phonetic) and the question was when you seen Inmate
21 Genao and -- when you seen Inmate Genao, why did you
22 allow CO Ford to walk me in the crib knowing I was not
23 from that housing area? Captain Lemmon states was on
24 vacation, the captain verbally stated I contacted the
25 sec intake and was notified that Inmate Genao was a,

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2 being secured who was to be escorted to Housing Area
3 9B. The statement was given to Deputy Warden Calloway.

4 I have a statement from CO Lynch shown on
5 8996, what did you tell CO Morales about putting me in
6 the housing area, ICO Lynch never spoke nor seen CO
7 Morales on October 25, 2018, what is my SRG status?
8 Genao Gambino is Trinitarian OAD. What housing area
9 did I come from? Genao Gambino was housed in 10B
10 before going to the beam (phonetic).

11 Statement from CO Ford, why did you walk me to
12 the crib knowing I was not from the housing area? As
13 the (inaudible) building escort I was authorized to
14 bring inmate to his assigned house, not building B
15 side.

16 After the search did you find any contraband
17 in intake? ICO Ford, I was not in the intake.

18 Statement from CO Morales, 14587, what housing
19 area did you tell me I was going? (inaudible) write-up
20 form said inmate that he was going to now B.

21 Why did, what did CO Lynch tell you to inform
22 me of? CO Lynch did not speak to (inaudible) about
23 anything returning to said inmate.

24 I have the statement from the Inmate Jaquan
25 (phonetic), Booking Case 3491611791, the question is

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2 did I cut you, did I slash you on November 2, 2018, at
3 0730 hours? Inmate (inaudible) Jaquan, 349161179,
4 refused to provide a written statement but verbally
5 that MF must be crazy, leave me alone with that BS, I
6 don't write statements. Refusal was logged on page 151
7 and the intake by Brooklyn House by CO Leeds, 10148.

8 Also, Gentech angle 11.1 (inaudible) view of
9 which I have the still shots of the incident. This is
10 your entering the housing area. Photo number two,
11 three, photo four, photo five, photo six --

12 THE PLAINTIFF: Excuse me, can I ask --

13 CAPTAIN PHILLIPS: Let me finish, sir. Can I
14 finish? Photo seven, photo eight, photo nine, ten,
15 eleven, twelve, thirteen, fourteen, fifteen, sixteen,
16 seventeen, eighteen, nineteen, twenty, twenty-one,
17 twenty-two, twenty-three and twenty-four. That's all
18 the documentation I have, is there anything else you
19 would like to add?

20 THE PLAINTIFF: Yes, I'd like to address
21 (inaudible) hearing. I never signed the waiver
22 (inaudible) signed that day and you said I wasn't
23 available to sign, which I was available to sign for. I
24 never gave you, how do you say, I never basically gave
25 you waiver or authorization to extend the hearing

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2 because I was available to sign that day, you didn't
3 give me the opportunity to sign, you never stated that
4 on the record.

5 The photos that are taken that I see don't
6 show, don't have any, don't show any supporting
7 evidence towards the substantiated -- it doesn't
8 substantiate the ticket. That angle that they had is
9 too far away from the incident. There's cameras that
10 are right next to where that incident took place and I
11 would like copies of those photos, as well.

12 The officers didn't, I would like to actually
13 dispute the testimony that I was given to, that the
14 question that I asked (inaudible) as well, because they
15 basically (inaudible) putting me in a housing area
16 knowing I don't go in that housing area and they
17 basically wanted either something to happen to me, they
18 basically, like, you know, my life in jeopardy, my
19 safety at risk and I would like photos of, copies of
20 all documentation referring to this ticket, as far as
21 the pictures, as well, are concerned, as well.

22 CAPTAIN PHILLIPS: Duly noted, I will
23 definitely take your testimony into consideration on
24 the supporting documentation, there will be a decision
25 rendered within one to five business days. If you do

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2 not agree you can appeal within two days. And this
3 concludes this hearing.

4 (end of recording)

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C E R T I F I C A T E

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4 I, Carole Ludwig, certify that the foregoing
5 transcript of the infraction hearing in the case of
6 Genao v. City of New York et al, Docket #21cv6507, was
7 prepared using digital transcription software and is a
8 true and accurate record of the proceedings.

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12 Signature Carole Ludwig

13 Carole Ludwig

14 Date: July 5, 2022

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